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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,320	02/25/2005	Beverly Cusick Taylor	PGW-100A	3559
28304	7590	03/26/2010		
JEAN M. MACHELEDT 501 SKYSAIL LANE SUITE B100 FORT COLLINS, CO 80525-3133			EXAMINER NGUYEN, CAMTU TRAN	
			ART UNIT 3772	PAPER NUMBER
			MAIL DATE 03/26/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/526,320	Applicant(s) TAYLOR, BEVERLY CUSICK
Examiner Camtu T. Nguyen	Art Unit 3772

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 March 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 4.
Claim(s) objected to: 2, 3, 5, 9, 11, 14, 20 and 22-28.
Claim(s) rejected: 1, 10, 12, 13 and 21.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Patricia Bianco/
Supervisory Patent Examiner, Art Unit 3772

/Camtu T. Nguyen/
Examiner, Art Unit 3772

Continuation of 3. NOTE:

Independent claims 1 & 12 now require the garments to be unitary style, of which limitations will require reconsideration and/or further search, as this newly added limitation was set forth on the merits in the Final Action (1/6/2010).

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's remarks against the Clement reference in the After Final (3/8/10) have been carefully considered but the claims are deemed not allowable. Specifically, applicant remarked that the Clement reference discloses two-piece shoulder saddle made up of a stiff flexible metal piece. Applicant amended independent claims 1 & 12 now requiring the garments are of unitary style, hence, such amendment has distinguished over the Clement reference

The Examiner respectfully disagrees.

In response, the Clement reference discloses a first garment of shoulder saddle & a second garment of an arm cuff. The shoulder saddle garment comprising padding (21) which can be formed of a sponger rubber or polymeric material (column 2 lines 60-62), rendering the shoulder saddle having elasticized properties. The arm cuff garment comprising an elastic band (51), therefore rendering the arm cuff garment having elasticized properties.

Regarding independent claims 1 & 12 now reciting the garments are of unitary style, applicant remarked the disclosure support for this newly added limitation is found in pages 5, 7, 10-11 and throughout applicant's Figures. These citations although provides disclosure support for the garments being unitary style, however, does not provide a definition of unitary.

The Examiner relied on the definition for the term unitary from a reliable source of dictionary.com, which defines unitary as pertaining to a unit or aiming toward unity. With this in mind, each of the garments in the Clement reference is of unitary style, together, the garments aim toward unity of an arm support.

Therefore, the Clement reference applied in 102 rejection in the previous Office Action stand rejected.

applicant remarked that